



UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

STEVEN HIRSCH,

Plaintiff,

-against-

BOSSIPMADAMENOIRE, LLC,

Defendant.

20-CV-2545 (VEC) (BCM)

ORDER

BARBARA MOSES, United States Magistrate Judge.

The Court has received and reviewed the parties' confidential settlement letters in advance of the settlement conference that I scheduled for May 28, 2020. It is apparent from those letters that the parties have not met this Court's pre-settlement conference requirements.

First, the plaintiff has not complied with the Order dated April 2, 2020, issued by the Hon. Valerie Caproni, United States District Judge, which required him to produce, within 14 days after service of process, "copies of records sufficient to show the royalty paid the last three times the picture at issue in this case was licensed, as well as the number of times the picture was licensed in the last five years." (Dkt. No. 4, at 1.) If the picture was never licensed, plaintiff was required to "expressly certify that fact to Defendant(s) as part of Plaintiff's production." (*Id.*) An email from counsel describing what his client "remembers" does not satisfy either branch of the April 2 Order.

Second, the parties have not complied with my Settlement Conference Scheduling Order dated May 8, 2020, which required that they conduct at least one good-faith settlement negotiation (*after* May 8), and that "each party convey to each opposing party at least one good-faith settlement demand or offer," in advance of the deadline to submit confidential settlement letters. (Dkt. No. 9 ¶¶ 2-3.) A general expression of willingness to try to settle the case is not a "good-faith settlement demand or offer."

The parties shall promptly comply with the April 2 and May 8 Orders, which will be the first topic of discussion at the May 28 settlement conference. In addition, if they have not already done so, the parties shall promptly serve their acknowledgment forms on one another. Defendant's insurance carrier representative need not attend the entire conference as long as she is available as needed, by telephone, until it is concluded.

Dated: New York, New York
May 26, 2020

SO ORDERED.

A handwritten signature in blue ink, appearing to read 'Barbara Moses', is written over a horizontal line.

BARBARA MOSES
United States Magistrate Judge